

Application No. 10/616,674
Amendment dated June 26, 2007
After Final Office Action of April 2, 2007

Docket No.: 023604.0102PTUS

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REMARKS

Claims 1 – 6 and 9 – 30 are pending in this application. On page 2, line 5, of the Final Office Action mailed April 2, 2007, it is stated, "Claims 6, and 7 were cancelled." We assume this is a typographical error; claims 7 and 8 have been canceled in previous responses to Office Actions. A Request for Continued Examination (RCE) is enclosed. A Declaration of Edward Larry McCleary is also enclosed.

In the Final Office Action mailed April 2, 2007, claim 1 remains rejected under 35 USC 102(b) as being anticipated by Sundram et al. (US Patent Application Publication No. 2002/0034562, hereinafter "Sundram") for the reasons set forth in the Office Action mailed September 18, 2006. Claim 1 has been amended to specifically exclude fat blends. It is not believed the limitation was necessary because the specification specifically defines "weight loss supplement" as used in the claims not to include diet ingredients such as low-fat or light formulations; however, this amendment has been made to clearly and specifically distinguish over Sundram. The Office Action also states that "a weight loss salad dressing" is not given any weight because it is recited in the preamble. The Examiner's attention is drawn to the fact that claim 1 recites "a salad dressing base", and this is not in the preamble. Thus, this must be given weight. Since the amended claim clearly distinguishes over Sundram, it is not anticipated by Sundram.

Claims 1 – 5 (*sic*) and 8 – 30 (*sic*) remain rejected under 35 USC 103(a) as being unpatentable over Sundram in view of McCleary (US Patent No. 6,579,866, hereinafter "McCleary") and Hastings (US Patent No. 5,626,849, hereinafter "Hastings"), and further in view of Dente (US Patent No. 6,277,396, hereinafter "Dente") for the reasons set forth in the Office Action mailed September 18, 2006. It is noted herein that the rejection actually is against claims 1 – 6 and 9 – 30. This rejection is respectfully traversed with respect to the amended claims. Claims 1 and 26 have been amended to clearly distinguish over Sundram, and the other claims depend on one of these claims. The Office Action states that McCleary teaches that the supplement can be administered orally as suspensions in water, powder, or chewable wafer and does not exclude using in any food or drink. However, the patent law requires that the references teach the invention, not that the references specifically exclude what is claimed. Further, McCleary only contemplated conventional methods of administration of

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supplements by medical doctors, and specifically does not teach the combination with foods and drinks, and in particular, salad dressings. See Declaration of Edward Larry McCleary, ¶¶10 – 13. Since both Sundram and McCleary are not applicable references to the amended claims, this rejection is overcome. Moreover, the combination of the weight loss supplement results in completely unexpected results. See Declaration of Edward Larry McCleary, ¶¶17 – 20.

Claims 1 – 5 (*sic*), 8 (*sic*), 9, 12 – 23, and 25 – 30 remain rejected on the ground of nonstatutory double patenting over claims 1 – 9 and 14 – 24 of McCleary for the reasons set forth in the Office Action mailed September 18, 2006. Again, it is noted herein that the rejection actually is against claims 1 – 6, 9, 12 – 23, and 25 – 30. Claim 8 has been canceled in a previous response to an Office Action. This rejection is respectfully traversed. McCleary only contemplated conventional methods of administration of supplements as known by medical doctors, and specifically does not teach the combination with foods and drinks, and in particular, salad dressings. See Declaration of Edward Larry McCleary, ¶¶10 – 13. Moreover, the combination of the weight loss supplement results in completely unexpected by McCleary. See Declaration of Edward Larry McCleary, ¶¶17 – 20.

In view of the above remarks, Applicants believe the pending application is in condition for allowance. A Request For Continued Examination and the appropriate fee are being filed with this response. If any additional fee is due, please charge our Deposit Account No. 50-1848, under Order No. 023604.0102PTUS from which the undersigned is authorized to draw.

Respectfully submitted,
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Dated: 7/2/07

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